

2. Refers the case back to the Court of First Instance of the European Communities;
3. Reserves the costs.

(<sup>1</sup>) OJ C 42, 24.2.2007.

**Judgment of the Court (Grand Chamber) of 16 December 2008 (reference for a preliminary ruling from the Oberverwaltungsgericht für das Land Nordrhein-Westfalen (Germany)) — Heinz Huber v Bundesrepublik Deutschland**

(Case C-524/06) (<sup>1</sup>)

**(Protection of personal data — European citizenship — Principle of non-discrimination on grounds of nationality — Directive 95/46/EC — Concept of necessity — General processing of personal data relating to citizens of the Union who are nationals of another Member State — Central register of foreign nationals)**

(2009/C 44/07)

Language of the case: German

**Referring court**

Oberverwaltungsgericht für das Land Nordrhein-Westfalen

**Parties to the main proceedings**

Applicant: Heinz Huber

Defendant: Bundesrepublik Deutschland

**Re:**

Reference for a preliminary ruling — Oberverwaltungsgericht für das Land Nordrhein-Westfalen — Interpretation of the first paragraph of Article 12 EC, Article 17 EC, Article 18(1) EC and the first paragraph of Article 43 EC, and of Article 7(e) of Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data (OJ 1995 L 281, p. 31) — National rules providing for the general processing of personal data relating to citizens of the other Member States in a national central register of foreign nationals, which differ from the national rules relating to the personal data of citizens of the State in question, which are processed only in the municipal registers for declarations of residence

**Operative part of the judgment**

- 1) A system for processing personal data relating to Union citizens who are not nationals of the Member State concerned, such as that put in place by the Law on the central register of foreign nationals (Gesetz über das Ausländerzentralregister) of 2 September 1994, as amended by the Law of 21 June 2005, and having as its object

the provision of support to the national authorities responsible for the application of the law relating to the right of residence does not satisfy the requirement of necessity laid down by Article 7(e) of Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data, interpreted in the light of the prohibition on any discrimination on grounds of nationality, unless:

- it contains only the data which are necessary for the application by those authorities of that legislation, and
- its centralised nature enables the legislation relating to the right of residence to be more effectively applied as regards Union citizens who are not nationals of that Member State.

It is for the national court to ascertain whether those conditions are satisfied in the main proceedings.

The storage and processing of personal data containing individualised personal information in a register such as the Central Register of Foreign Nationals for statistical purposes cannot, on any basis, be considered to be necessary within the meaning of Article 7(e) of Directive 95/46.

- 2) Article 12(1) EC must be interpreted as meaning that it precludes the putting in place by a Member State, for the purpose of fighting crime, of a system for processing personal data specific to Union citizens who are not nationals of that Member State.

(<sup>1</sup>) OJ C 56, 10.3.2007.

**Judgment of the Court (Grand Chamber) of 16 December 2008 — Masdar (UK) Ltd v Commission of the European Communities**

(Case C-47/07 P) (<sup>1</sup>)

**(Appeal — Second paragraph of Article 288 EC — Action alleging unjust enrichment on the part of the Community — Community assistance programmes — Irregularities on the part of the co-contractor of the Commission — Services provided by a subcontractor — Non-payment — Risks inherent in economic activities — Principle of the protection of legitimate expectations — Duty of care of the Community administration)**

(2009/C 44/08)

Language of the case: English

**Parties**

Appellant: Masdar (UK) Ltd (represented by: A.P. Bentley, QC, and P. Green, barrister)

Other party to the proceedings: Commission of the European Communities (represented by: J. Enegren and M. Wilderspin, acting as Agents)